

California Code Sections Dealing with Natural Hazard Disclosure

CALIFORNIA CODES

CIVIL CODE

SECTION 1102-1102.18

1102.(a) Except as provided in Section 1102.2, this article applies to any transfer by sale, exchange, installment land sale contract, as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of real property or residential stock cooperative, improved with or consisting of not less than one nor more than four dwelling units.

(b) Except as provided in Section 1102.2, this article shall apply to a resale transaction entered into on or after January 1, 2000, for a manufactured home, as defined in Section 18007 of the Health and Safety **Code**, or a mobile home, as defined in Section 18008 of the Health and Safety **Code**, which manufactured home or mobile home is classified as personal property and intended for use as a residence.

(c) Any waiver of the requirements of this article is void as against public policy.

1102.1(a) In enacting Chapter 817 of the Statutes of 1994, it was the intent of the Legislature to clarify and facilitate the use of the real estate **disclosure** statement, as specified in Section 1102.6. The Legislature intended the statement to be used by transferors making disclosures required under this article and by agents making disclosures required by Section 2079 on the agent's portion of the real estate **disclosure** statement, in transfers subject to this article. In transfers not subject to this article, agents may make required disclosures in a separate writing. The Legislature did not intend to affect the existing obligations of the parties to a real estate contract, or their agents, to disclose any fact materially affecting the value and desirability of the property, including, but not limited to, the physical conditions of the property and previously received reports of physical inspections noted on the **disclosure** form set forth in Section 1102.6 or 1102.6a, and that nothing in this article shall be construed to change the duty of a real estate broker or salesperson pursuant to Section 2079. It is also the intent of the Legislature that the delivery of a real estate transfer **disclosure** statement may not be waived in an "as is" sale, as held in *Loughrin v. Superior Court* (1993) 15 Cal. App.4th 1188.

(b) In enacting Chapter 677 of the Statutes of 1996, it was the intent of the Legislature to clarify and facilitate the use of the manufactured home and mobile home transfer **disclosure** statement applicable to the resale of a manufactured home or mobile home pursuant to subdivision (b) of Section 1102. The Legislature intended the statements to be used by transferors making disclosures required under this article and by agents making disclosures required by Section 2079 on the agent's portion of the **disclosure** statement and as required by Section 18046 of the Health and Safety **Code** on the dealer's portion of the manufactured home and mobile home transfer **disclosure** statement, in transfers subject to this article. In transfers not subject to this article, agents may make required disclosures in a separate writing. The Legislature did not intend to affect the existing obligations of the parties to a real estate contract, or their agents, to disclose any fact materially affecting the value and desirability of the property, including, but not limited to, the physical conditions of the property and previously received reports of physical inspections noted on the **disclosure** form set forth in Section 1102.6 or 1102.6a or to affect the existing obligations of the parties to a manufactured home or mobile home purchase contract, and nothing in this article shall be construed to change the duty of a real estate broker or salesperson pursuant to Section 2079 or the duty of a manufactured home or mobile home dealer or salesperson pursuant to Section 18046 of the Health and

Safety Code. It is also the intent of the Legislature that the delivery of a mobile home transfer **disclosure** statement may not be waived in an “as is” sale.

© It is the intent of the Legislature that manufactured home and mobile home dealers and salespersons and real estate brokers and salespersons use the form provided pursuant to Section 1102.6d. It is also the intent of the Legislature for sellers of manufactured homes or mobile homes who are neither manufactured home dealers or salespersons nor real estate brokers or salespersons to use the Manufactured Home/Mobile home Transfer **Disclosure** Statement contained in Section 1102.6d.

1102.2 This article does not apply to the following:

(a) Transfers which are required to be preceded by the furnishing to a prospective transferee of a copy of a public report pursuant to Section 11018.1 of the Business and Professions **Code** and transfers which can be made without a public report pursuant to Section 11010.4 of the Business and Professions **Code**.

(b) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in the administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance. (c) Transfers to a mortgagee by a mortgagor or successor in interest who is in default, transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, transfers by a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale, transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure, transfers to the legal owner or lien holder of a manufactured home or mobile home by a registered owner or successor in interest who is in default, or transfers by reason of any foreclosure of a security interest in a manufactured home or mobile home.

(d) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust. This exemption shall not apply to a transfer if the trustee is a natural person who is sole trustee of a revocable trust and he or she is a former owner of the property or an occupant in possession of the property within the preceding year.

(e) Transfers from one co-owner to one or more other co-owners.

(f) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(g) Transfers between spouses resulting from a judgment of dissolution of marriage or of legal separation or from a property settlement agreement incidental to that judgment.

(h) Transfers by the Controller in the course of administering Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the **Code of Civil Procedure**.

(i) Transfers under Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation **Code**.

(j) Transfers or exchanges to or from any governmental entity.

1102.3. The transferor of any real property subject to this article shall deliver to the prospective transferee the written statement required by this article, as follows:

(a) In the case of a sale, as soon as practicable before transfer of title.

(b) In the case of transfer by a real property sales contract, as defined in Section 2985, or by a lease together with an option to purchase, or a ground lease coupled with improvements, as soon as practicable before execution of the contract. For the purpose of this subdivision, "execution" means the making or acceptance of an offer. With respect to any transfer subject to subdivision (a) or (b), the transferor shall indicate compliance with this article either on the receipt for deposit, the real property sales contract, the lease, or any addendum attached thereto or on a separate document. If any **disclosure**, or any material amendment of any **disclosure**, required to be made by this article, is delivered after the execution of an offer to purchase, the transferee shall have three days after delivery in person or five days after delivery by deposit in the mail, to terminate his or her offer by delivery of a written notice of termination to the transferor or the transferor's agent.

1102.3a. (a) The transferor of any manufactured home or mobile home subject to this article shall deliver to the prospective transferee the written statement required by this article, as follows: (1) In the case of a sale, or a lease with an option to purchase, of a manufactured home or mobile home, involving an agent, as defined in Section 18046 of the Health and Safety **Code**, as soon as practicable, but no later than the close of escrow for the purchase of the manufactured home or mobile home. (2) In the case of a sale, or lease with an option to purchase, of a manufactured home or mobile home, not involving an agent, as defined in Section 18046 of the Health and Safety **Code**, at the time of execution of any document by the prospective transferee with the transferor for the purchase of the manufactured home or mobile home.

(b) With respect to any transfer subject to this section, the transferor shall indicate compliance with this article either on the transfer **disclosure** statement, any addendum thereto, or on a separate document.

(c) If any **disclosure**, or any material amendment of any **disclosure**, required to be made pursuant to subdivision (b) of Section 1102, is delivered after the execution of an offer to purchase, the transferee shall have three days after delivery in person or five days after delivery by deposit in the mail, to terminate his or her offer by delivery of a written notice of termination to the transferor.

1102.4. (a) Neither the transferor nor any listing or selling agent shall be liable for any error, inaccuracy, or omission of any information delivered pursuant to this article if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or that listing or selling agent, was based on information timely provided by public agencies or by other persons providing information as specified in subdivision (c) that is required to be disclosed pursuant to this article, and ordinary care was exercised in obtaining and transmitting it.

(b) The delivery of any information required to be disclosed by this article to a prospective transferee by a public agency or other person providing information required to be disclosed pursuant to this article shall be deemed to comply with the requirements of this article and shall relieve the transferor or any listing or selling agent of any further duty under this article with respect to that item of information.

(c) The delivery of a report or opinion prepared by a licensed engineer, land surveyor, geologist, structural pest control operator, contractor, or other expert, dealing with matters within the scope of the professional's license or expertise, shall be sufficient compliance for application of the exemption provided by subdivision (a) if the information is provided to the prospective transferee pursuant to a request therefore, whether written or oral. In responding to such a request, an expert

may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of Section 1102.6 and, if so, shall indicate the required disclosures, or parts thereof, to which the information being furnished is applicable. Where such a statement is furnished, the expert shall not be responsible for any items of information, or parts thereof, other than those expressly set forth in the statement.

1102.5. If information disclosed in accordance with this article is subsequently rendered inaccurate as a result of any act, occurrence, or agreement subsequent to the delivery of the required disclosures, the inaccuracy resulting therefrom does not constitute a violation of this article. If at the time the disclosures are required to be made, an item of information required to be disclosed is unknown or not available to the transferor, and the transferor or his or her agent has made a reasonable effort to ascertain it, the transferor may use an approximation of the information, provided the approximation is clearly identified as such, is reasonable, is based on the best information available to the transferor or his or her agent, and is not used for the purpose of circumventing or evading this article.

1102.6. The disclosures required by this article pertaining to the property proposed to be transferred are set forth in, and shall be made on a copy of, the following **disclosure** form:

1102.6a. (a) On and after July 1, 1990, any city or county may elect to require disclosures on the form set forth in subdivision (b) in addition to those disclosures required by Section 1102.6. However, this section does not affect or limit the authority of a city or county to require disclosures on a different **disclosure** form in connection with transactions subject to this article pursuant to an ordinance adopted prior to July 1, 1990. Such an ordinance adopted prior to July 1, 1990, may be amended thereafter to revise the **disclosure** requirements of the ordinance, in the discretion of the city council or county board of supervisors.

(b) Disclosures required pursuant to this section pertaining to the property proposed to be transferred, shall be set forth in, and shall be made on a copy of, the following **disclosure** form:

(c) This section does not preclude the use of addenda to the form specified in subdivision (b) to facilitate the required disclosures. This section does not preclude a city or county from using the **disclosure** form specified in subdivision (b) for a purpose other than that specified in this section.

(d) (1) On and after January 1, 2005, if a city or county adopts a different or additional **disclosure** form pursuant to this section regarding the proximity or effects of an airport, the statement in that form shall contain, at a minimum, the information in the statement "Notice of Airport in Vicinity" found in Section 11010 of the Business and Professions **Code**, or Section 1103.4 or 1353. (2) On and after January 1, 2006, if a city or county does not adopt a different or additional **disclosure** form pursuant to this section, then the provision of an "airport influence area" **disclosure** pursuant to Section 11010 of the Business and Professions **Code**, or Section 1103.4 or 1353, or if there is not a current airport influence map, a written **disclosure** of an airport within two statute miles, shall be deemed to satisfy any city or county requirements for the **disclosure** of airports in connection with transfers of real property.

1102.6b. (a) This section applies to all transfers of real property for which all of the following apply: (1) The transfer is subject to this article. (2) The property being transferred is subject to a continuing lien securing the levy of special taxes pursuant to the Mello-Roos Community Facilities Act (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government **Code**) or to a fixed lien assessment collected in installments to secure bonds issued pursuant

to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways **Code**).

(3) A notice is not required pursuant to Section 53341.5 of the Government **Code**.

(b) In addition to any other **disclosure** required pursuant to this article, the seller of any real property subject to this section shall make a good faith effort to obtain a **disclosure** notice concerning the special tax as provided for in Section 53340.2 of the Government **Code**, or a **disclosure** notice concerning an assessment installment as provided in Section 53754 of the Government **Code**, from each local agency that levies a special tax pursuant to the Mello-Roos Community Facilities Act, or that collects assessment installments to secure bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways **Code**), on the property being transferred, and shall deliver that notice or those notices to the prospective purchaser, as long as the notices are made available by the local agency.

a) seller of real property subject to this section may satisfy the **disclosure** notice requirements in regard to the bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways **Code**) by delivering a **disclosure** notice that is substantially equivalent and obtained from another source, until December 31, 2004. For the purposes of this section, a substantially equivalent **disclosure** notice includes, but is not limited to, a copy of the most recent year's property tax bill or an itemization of current assessment amounts applicable to the property.

(1) Notwithstanding subdivision (c), at any time after the effective date of this section, the seller of real property subject to this section may satisfy the **disclosure** notice requirements of this section by delivering a **disclosure** notice obtained from a nongovernmental source that satisfies the requirements of paragraph (2). (2) A notice provided by a private entity other than a designated office, department, or bureau of the levying entity may be modified as needed to clearly and accurately describe a special tax pursuant to the Mello-Roos Community Facilities Act levied against the property or to clearly and accurately consolidate information about two or more districts that levy or are authorized to levy a special tax pursuant to the Mello-Roos Community Facilities Act against the property, and shall include the name of the Mello-Roos entity levying taxes against the property, the annual tax due for the Mello-Roos entity for the current tax year, the maximum tax that may be levied against the property in any year, the percentage by which the maximum tax for the Mello-Roos entity may increase per year, and the date until the tax may be levied against the property for the Mello-Roos entity and a contact telephone number, if available, for further information about the Mello-Roos entity. A notice provided by a private entity other than a designated office, department, or bureau of the levying entity may be modified as needed to clearly and accurately describe special assessments and bonds pursuant to the Improvement Bond Act of 1915 levied against the property, or to clearly and accurately consolidate information about two or more districts that levy or are authorized to levy special assessments and bonds pursuant to the Improvement Bond Act of 1915 against the property, and shall include the name of the special assessments and bonds issued pursuant to the Improvement Bond Act of 1915, the current annual tax on the property for the special assessments and bonds issued pursuant to the Improvement Bond Act of 1915 and a contact telephone number, if available, for further information about the special assessments and bonds issued pursuant to the Improvement Bond Act of 1915. (3) This section does not change the ability to make disclosures pursuant to Section 1102.4 of the **Civil Code**.

(e) If a **disclosure** received pursuant to subdivision (b), (c), or (d) has been delivered to the transferee, a seller or his or her agent is not required to provide additional information concerning, and information in the **disclosure** shall be deemed to satisfy the responsibility of the seller or his or her agent to inform the transferee regarding the special tax or assessment installments and the district. Notwithstanding subdivision (b), (c), or (d), nothing in this section imposes a duty to discover a special tax or assessment installments or the existence of any levying district not actually known to the agents.

1102.6d. Except for manufactured homes and mobile homes located in a common interest development governed by Title 6 (commencing with Section 1351), the disclosures applicable to the resale of a manufactured home or mobile home pursuant to subdivision (b) of Section 1102 are set forth in, and shall be made on a copy of, the following **disclosure** form:

1102.7. Each **disclosure** required by this article and each act which may be performed in making the **disclosure**, shall be made in good faith. For purposes of this article, "good faith" means honesty in fact in the conduct of the transaction.

1102.8. The specification of items for **disclosure** in this article does not limit or abridge any obligation for **disclosure** created by any other provision of law or which may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

1102.9. Any **disclosure** made pursuant to this article may be amended in writing by the transferor or his or her agent, but the amendment shall be subject to Section 1102.3 or 1102.3a.

1102.10. Delivery of disclosures required by this article shall be by personal delivery to the transferee or by mail to the prospective transferee. For the purposes of this article, delivery to the spouse of a transferee shall be deemed delivery to the transferee, unless provided otherwise by contract.

1102.11. Any person or entity, other than a real estate licensee licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions **Code**, acting in the capacity of an escrow agent for the transfer of real property subject to this article shall not be deemed the agent of the transferor or transferee for purposes of the **disclosure** requirements of this article, unless the person or entity is empowered to so act by an express written agreement to that effect. The extent of such an agency shall be governed by the written agreement.

1102.12. (a) If more than one licensed real estate broker is acting as an agent in a transaction subject to this article, the broker who has obtained the offer made by the transferee shall, except as otherwise provided in this article, deliver the **disclosure** required by this article to the transferee, unless the transferor has given other written instructions for delivery. (b) If a licensed real estate broker responsible for delivering the disclosures under this section cannot obtain the **disclosure** document required and does not have written assurance from the transferee that the **disclosure** has been received, the broker shall advise the transferee in writing of his or her rights to the **disclosure**. A licensed real estate broker responsible for delivering disclosures under this section shall maintain a record of the action taken to effect compliance in accordance with Section 10148 of the Business and Professions **Code**.

1102.13. No transfer subject to this article shall be invalidated solely because of the failure of any person to comply with any provision of this article. However, any person who willfully or negligently violates or fails to perform any duty prescribed by any provision of this article shall be liable in the amount of actual damages suffered by a transferee.

1102.14 (a) As used in this article, "listing agent" means listing agent as defined in subdivision (f) of Section 1086. (b) As used in this article, "selling agent" means selling agent as defined in subdivision (g) of Section 1086, exclusive of the requirement that the agent be a participant in a multiple listing service as defined in Section 1087.

1102.15. The seller of residential real property subject to this article who has actual knowledge of any former federal or state ordnance locations within the neighborhood area shall give written notice of that knowledge as soon as practicable before transfer of title. For purposes of this section, "former federal or state ordnance locations" means an area identified by an agency or instrumentality of the federal or state government as an area once used for military training purposes which may contain potentially explosive munitions. "Neighborhood area" means within one mile of the residential real property. The **disclosure** required by this section does not limit or abridge any obligation for **disclosure** created by any other law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

1102.16. The **disclosure** of the existence of any window security bars and any safety release mechanism on those window security bars shall be made pursuant to Section 1102.6 or 1102.6a of the **Civil Code**.

1102.17. The seller of residential real property subject to this article who has actual knowledge that the property is adjacent to, or zoned to allow, an industrial use described in Section 731a of the **Code of Civil Procedure**, or affected by a nuisance created by such a use, shall give written notice of that knowledge as soon as practicable before transfer of title.

1102.18. (a) For purposes of this section, the following definitions shall apply: (1) "Illegal controlled substance" means a drug, substance, or immediate precursor listed in any schedule contained in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety **Code**, or an emission or waste material resulting from the unlawful manufacture or attempt to manufacture an illegal controlled substance. An "illegal controlled substance" does not include, for purposes of this section, marijuana. (2) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of an illegal controlled substance in a structure or into the environment.

(b) (1) Any owner of residential real property who knows, as provided in paragraph (2), that any release of an illegal controlled substance has come to be located on or beneath that real property shall, prior to the sale of the real property by that owner, give written notice of that condition to the buyer pursuant to Section 1102.6 by checking "yes" in question IC1 of the Real Estate Transfer **Disclosure** Statement contained in that section and attaching a copy of any notice received from law enforcement or any other entity, such as the Department of Toxic Substances Control, the county health department, the local environmental health officer, or a designee, advising the owner of the release on the property. (2) For purposes of this subdivision, a seller's knowledge of the condition is established by the receipt of a notice specified in paragraph (1) or by actual knowledge of the condition from a source independent of the notice. (3) If the seller delivers the **disclosure** information required by paragraph (1), delivery shall be deemed legally adequate for purposes of informing the prospective buyer of that condition, and the seller is not required to provide any additional **disclosure** of that information. (4) Failure of the owner to provide written notice to the buyer when required by this subdivision shall subject the owner to actual damages and any other remedies provided by law. In addition, if the owner has actual knowledge of the presence of any release of an illegal controlled substance and knowingly and willfully fails to provide written notice to the buyer, as required by this subdivision, the owner is liable for a **civil** penalty not to exceed five thousand dollars (\$5,000) for each separate violation, in addition to any other damages provided by law.

(c) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

(a) Except as provided in Section 1103.1, this article applies to the transfer by sale, exchange, installment land sale contract, as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of any real property described in subdivision (c), or residential stock cooperative, improved with or consisting of not less than one nor more than four dwelling units.

(b) Except as provided in Section 1103.1, this article shall apply to a resale transaction entered into on or after January 1, 2000, for a manufactured home, as defined in Section 18007 of the Health and Safety **Code**, that is classified as personal property intended for use as a residence, or a mobile home, as defined in Section 18008 of the Health and Safety **Code**, that is classified as personal property intended for use as a residence, if the real property on which the manufactured home or mobile home is located is real property described in subdivision (c).

(c) This article shall apply to the transactions described in subdivisions (a) and (b) only if the transferor or his or her agent is required by one or more of the following to disclose the property's location within a **hazard** zone: (1) A person who is acting as an agent for a transferor of real property that is located within a special flood **hazard** area (any type Zone "A" or "V") designated by the Federal Emergency Management Agency, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a special flood **hazard** area if either: (A) The transferor, or the transferor's agent, has actual knowledge that the property is within a special flood **hazard** area. (B) The local jurisdiction has compiled a list, by parcel, of properties that are within the special flood **hazard** area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list. (2) A person who is acting as an agent for a transferor of real property that is located within an area of potential flooding designated pursuant to Section 8589.5 of the Government **Code**, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within an area of potential flooding if either: (A) The transferor, or the transferor's agent, has actual knowledge that the property is within an inundation area. (B) The local jurisdiction has compiled a list, by parcel, of properties that are within the inundation area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list. (3) A transferor of real property that is located within a very high fire **hazard** severity zone, designated pursuant to Section 51178 of the Government **Code**, shall disclose to any prospective transferee the fact that the property is located within a very high fire **hazard** severity zone and is subject to the requirements of Section 51182 of the Government **Code** if either: (A) The transferor, or the transferor's agent, has actual knowledge that the property is within a very high fire **hazard** severity zone. (B) A map that includes the property has been provided to the local agency pursuant to Section 51178 of the Government **Code** and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the local agency. (4) A person who is acting as an agent for a transferor of real property that is located within an earthquake fault zone, designated pursuant to Section 2622 of the Public Resources **Code**, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a delineated earthquake fault zone if either: (A) The transferor, or the transferor's agent, has actual knowledge that the property is within a delineated earthquake fault zone. (B) A map that includes the property has been provided to the city or county pursuant to Section 2622 of the Public Resources **Code** and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county. (5) A person who is acting as an agent for a transferor of real property that is located within a seismic **hazard** zone, designated pursuant to Section 2696 of the Public Resources **Code**, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the

fact that the property is located within a seismic **hazard** zone if either: (A) The transferor, or the transferor's agent, has actual knowledge that the property is within a seismic **hazard** zone. (B) A map that includes the property has been provided to the city or county pursuant to Section 2696 of the Public Resources **Code** and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county. (6) A transferor of real property that is located within a state responsibility area determined by the board, pursuant to Section 4125 of the Public Resources **Code**, shall disclose to any prospective transferee the fact that the property is located within a wild land area that may contain substantial forest fire risks and hazards and is subject to the requirements of Section 4291 if either: (A) The transferor, or the transferor's agent, has actual knowledge that the property is within a wild land fire zone. (B) A map that includes the property has been provided to the city or county pursuant to Section 4125 of the Public Resources **Code** and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(d) Any waiver of the requirements of this article is void as against public policy.

1103.1. (a) This article does not apply to the following transfers: (1) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance. (2) Transfers to a mortgagee by a mortgagor or successor in interest who is in default, transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, transfers by a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale, or transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure. (3) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust. (4) Transfers from one co owner to one or more other co owners. (5) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors. (6) Transfers between spouses resulting from a judgment of dissolution of marriage or of legal separation of the parties or from a property settlement agreement incidental to that judgment. (7) Transfers by the Controller in the course of administering Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the **Code of Civil Procedure**. (8) Transfers under Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation **Code**. (9) Transfers or exchanges to or from any governmental entity.

(b) Transfers not subject to this article may be subject to other **disclosure** requirements, including those under Sections 8589.3, 8589.4, and 51183.5 of the Government **Code** and Sections 2621.9, 2694, and 4136 of the Public Resources **Code**. In transfers not subject to this article, agents may make required disclosures in a separate writing.

1103.2. (a) The disclosures required by this article are set forth in, and shall be made on a copy of, the following Natural **Hazard Disclosure Statement**:

NATURAL HAZARD DISCLOSURE STATEMENT

This statement applies to the following property: _____

The transferor and his or her agent(s) or a third-party consultant disclose the following information with the knowledge that even though this is not a warranty, prospective transferees may rely on this information in deciding whether and on what terms to purchase the subject property. Transferor hereby authorizes any agent(s) representing any principal(s) in this action to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property. The following are representations made by the transferor and his or her agent(s) based on their knowledge and maps drawn by the state and federal governments. This information is a **disclosure** and is not intended to be part of any contract between the transferee and transferor.

THIS REAL PROPERTY LIES WITHIN THE FOLLOWING
HAZARDOUS AREA (S):

A SPECIAL FLOOD **HAZARD** AREA (Any type Zone "A" or "V")
designated by the Federal Emergency Management Agency.

Yes _____ No _____ Do not know and information not available from local jurisdiction _____

AN AREA OF POTENTIAL FLOODING shown on a dam failure inundation map pursuant to Section 8589.5 of the Government **Code**.

Yes _____ No _____ Do not know and information not available from local jurisdiction _____

A VERY HIGH FIRE **HAZARD** SEVERITY ZONE pursuant to Section 51178 or 51179 of the Government **Code**. The owner of this property is subject to the maintenance requirements of Section 51182 of the Government **Code**.

Yes _____ No _____

A WILDLAND AREA THAT MAY CONTAIN SUBSTANTIAL FOREST FIRE RISKS AND HAZARDS pursuant to Section 4125 of the Public Resources **Code**. The owner of this property is subject to the maintenance requirements of Section 4291 of the Public Resources **Code**. Additionally, it is not the state's responsibility to provide fire protection services to any building or structure located within the wild lands unless the Department of Forestry and Fire Protection has entered into a cooperative agreement with a local agency for those purposes pursuant to Section 4142 of the Public Resources **Code**.

Yes _____ No _____

AN EARTHQUAKE FAULT ZONE pursuant to Section 2622 of the Public Resources **Code**.

Yes _____ No _____

A SEISMIC **HAZARD** ZONE pursuant to Section 2696 of the Public Resources **Code**.

Yes (Landslide Zone) _____ Yes (Liquefaction Zone) _____

No _____ Map not yet released by state _____

THESE HAZARDS MAY LIMIT YOUR ABILITY TO DEVELOP THE REAL PROPERTY, TO OBTAIN INSURANCE, OR TO RECEIVE ASSISTANCE AFTER A DISASTER. THE MAPS ON WHICH THESE DISCLOSURES ARE BASED ESTIMATE WHERE NATURAL HAZARDS EXIST. THEY ARE NOT DEFINITIVE INDICATORS OF WHETHER OR NOT A PROPERTY WILL BE AFFECTED BY A NATURAL DISASTER. TRANSFEREE(S) AND TRANSFEROR(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE REGARDING THOSE HAZARDS AND OTHER HAZARDS THAT MAY AFFECT THE PROPERTY.

Signature of Transferor(s)_____

Date_____

Signature of Transferor(s)_____

Date_____

Agent(s)_____

Date_____

Agent(s)_____

Date_____

Check only one of the following:

Transferor(s) and their agent(s) represent that the information herein is true and correct to the best of their knowledge as of the date signed by the transferor(s) and agent(s). Transferor(s) and their agent(s) acknowledge that they have exercised good faith in the selection of a third-party report provider as required in **Civil Code** Section 1103.7, and that the representations made in this Natural **Hazard Disclosure** Statement are based upon information provided by the independent third-party **disclosure** provider as a substituted **disclosure** pursuant to **Civil Code** Section 1103.4. Neither transferor(s) nor their agent(s) (1) has independently verified the information contained in this statement and report or (2) is personally aware of any errors or inaccuracies in the information contained on the statement. This statement was prepared by the provider below:

Third-Party

Disclosure Provider(s) _____ Date _____

Transferee represents that he or she has read and understands this document. Pursuant to **Civil Code** Section 1103.8, the representations made in this Natural **Hazard Disclosure** Statement do not constitute all of the transferor's or agent's **disclosure** obligations in this transaction.

Signature of Transferee(s)_____ Date_____

Signature of Transferee(s)_____ Date_____

(b) If an earthquake fault zone, seismic **hazard** zone, very high fire **hazard** severity zone, or wild land fire area map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a natural **hazard** area, the transferor or transferor's agent shall mark "Yes" on the Natural **Hazard**

Disclosure Statement. The transferor or transferor's agent may mark "No" on the Natural **Hazard Disclosure** Statement if he or she attaches a report prepared pursuant to subdivision (c) of Section 1103.4 that verifies the property is not in the **hazard** zone. Nothing in this subdivision is intended to limit or abridge any existing duty of the transferor or the transferor's agents to exercise reasonable care in making a determination under this subdivision.

(c) If the Federal Emergency Management Agency has issued a Letter of Map Revision confirming that a property is no longer within a special flood **hazard** area, then the transferor or transferor's agent may mark "No" on the Natural **Hazard Disclosure** Statement, even if the map has not yet been updated. The transferor or transferor's agent shall attach a copy of the Letter of Map Revision to the **disclosure** statement. If the Federal Emergency Management Agency has issued a Letter of Map Revision confirming that a property is within a special flood **hazard** area and the location of the letter has been posted pursuant to subdivision (g) of Section 8589.3 of the Government **Code**, then the transferor or transferor's agent shall mark "Yes" on the Natural **Hazard Disclosure** Statement, even if the map has not yet been updated. The transferor or transferor's agent shall attach a copy of the Letter of Map Revision to the **disclosure** statement.

(e) The **disclosure** required pursuant to this article may be provided by the transferor and the transferor's agent in the Local Option Real Estate **Disclosure** Statement described in Section 1102.6a, provided that the Local Option Real Estate **Disclosure** Statement includes substantially the same information and substantially the same warnings that are required by this section.

(f) (1) The legal effect of a consultant's report delivered to satisfy the exemption provided by Section 1103.4 is not changed when it is accompanied by a Natural **Hazard Disclosure** Statement. (2) A consultant's report shall always be accompanied by a completed and signed Natural **Hazard Disclosure** Statement. (3) In a **disclosure** statement required by this section, an agent and third-party provider may cause his or her name to be preprinted in lieu of an original signature in the portions of the form reserved for signatures. The use of a preprinted name shall not change the legal effect of the acknowledgment.

(g) The **disclosure** required by this article is only a **disclosure** between the transferor, the transferor's agents, and the transferee, and shall not be used by any other party, including, but not limited to, insurance companies, lenders, or governmental agencies, for any purpose.

(h) In any transaction in which a transferor has accepted, prior to June 1, 1998, an offer to purchase, the transferor, or his or her agent, shall be deemed to have complied with the requirement of subdivision (a) if the transferor or agent delivers to the prospective transferee a statement that includes substantially the same information and warning as the Natural **Hazard Disclosure** Statement.

1103.3. (a) The transferor of any real property subject to this article shall deliver to the prospective transferee the written statement required by this article, as follows: (1) In the case of a sale, as soon as practicable before transfer of title. (2) In the case of transfer by a real property sales contract, as defined in Section 2985, or by a lease together with an option to purchase, or a ground lease coupled with improvements, as soon as practicable before execution of the contract. For the purpose of this subdivision, "execution" means the making or acceptance of an offer.

(b) The transferor shall indicate compliance with this article either on the receipt for deposit, the real property sales contract, the lease, any addendum attached thereto, or on a separate document.

(c) If any **disclosure**, or any material amendment of any **disclosure**, required to be made pursuant to this article is delivered after the execution of an offer to purchase, the transferee shall have three days after delivery in person or five days after

delivery by deposit in the mail to terminate his or her offer by delivery of a written notice of termination to the transferor or the transferor's agent.

1103.4. (a) Neither the transferor nor any listing or selling agent shall be liable for any error, inaccuracy, or omission of any information delivered pursuant to this article if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or the listing or selling agent, and was based on information timely provided by public agencies or by other persons providing information as specified in subdivision (c) that is required to be disclosed pursuant to this article, and ordinary care was exercised in obtaining and transmitting the information.

(b) The delivery of any information required to be disclosed by this article to a prospective transferee by a public agency or other person providing information required to be disclosed pursuant to this article shall be deemed to comply with the requirements of this article and shall relieve the transferor or any listing or selling agent of any further duty under this article with respect to that item of information.

(c) The delivery of a report or opinion prepared by a licensed engineer, land surveyor, geologist, or expert in natural **hazard** discovery dealing with matters within the scope of the professional's license or expertise, shall be sufficient compliance for application of the exemption provided by subdivision (a) if the information is provided to the prospective transferee pursuant to a request therefore, whether written or oral. In responding to that request, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of Section 1103.2 and, if so, shall indicate the required disclosures, or parts thereof, to which the information being furnished is applicable. Where that statement is furnished, the expert shall not be responsible for any items of information, or parts thereof, other than those expressly set forth in the statement. (1) In responding to the request, the expert shall determine whether the property is within an airport influence area as defined in subdivision (b) of Section 11010 of the Business and Professions **Code**. If the property is within an airport influence area, the report shall contain the following statement:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

(2) In responding to the request, the expert shall determine whether the property is within the jurisdiction of the San Francisco Bay Conservation and Development Commission, as defined in Section 66620 of the Government **Code**. If the property is within the commission's jurisdiction, the report shall contain the following notice:

NOTICE OF SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION JURISDICTION

This property is located within the jurisdiction of the San Francisco Bay Conservation and Development Commission. Use and development of property within the commission's jurisdiction may be subject to special regulations, restrictions, and permit requirements. You may wish to investigate and determine whether they are acceptable to you and your intended use of the property before you complete your transaction.

1103.5. (a) After a transferor and his or her agent comply with Section 1103.2, they shall be relieved of further duty under this article with respect to those items of information. The transferor and his or her agent shall not be required to provide notice to the transferee if the information provided subsequently becomes inaccurate as a result of any governmental

action, map revision, changed information, or other act or occurrence, unless the transferor or agent has actual knowledge that the information has become inaccurate.

(b) If information disclosed in accordance with this article is subsequently rendered inaccurate as a result of any governmental action, map revision, changed information, or other act or occurrence subsequent to the delivery of the required disclosures, the inaccuracy resulting there from does not constitute a violation of this article.

1103.7. Each **disclosure** required by this article and each act that may be performed in making the **disclosure** shall be made in good faith. For purposes of this article, "good faith" means honesty in fact in the conduct of the transaction.

1103.8. (a) The specification of items for **disclosure** in this article does not limit or abridge any obligation for **disclosure** created by any other provision of law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction. The legislature does not intend to affect the existing obligations of the parties to a real estate contract, or their agents, to disclose any fact materially affecting the value and desirability of the property, including, but not limited to, the physical condition of the property and previously received reports of physical inspection noted on the **disclosure** form provided pursuant to Section 1102.6 or 1102.6a.

(b) Nothing in this article shall be construed to change the duty of a real estate broker or salesperson pursuant to Section 2079.

1103.9. Any **disclosure** made pursuant to this article may be amended in writing by the transferor or his or her agent, but the amendment shall be subject to Section 1103.3.

1103.10. Delivery of disclosures required by this article shall be by personal delivery to the transferee or by mail to the prospective transferee. For the purposes of this article, delivery to the spouse of a transferee shall be deemed delivery to the transferee, unless provided otherwise by contract.

1103.11. Any person or entity, other than a real estate licensee licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions **Code**, acting in the capacity of an escrow agent for the transfer of real property subject to this article shall not be deemed the agent of the transferor or transferee for purposes of the **disclosure** requirements of this article, unless the person or entity is empowered to so act by an express written agreement to that effect. The extent of that agency shall be governed by the written agreement.

1103.12. (a) If more than one licensed real estate broker is acting as an agent in a transaction subject to this article, the broker who has obtained the offer made by the transferee shall, except as otherwise provided in this article, deliver the **disclosure** required by this article to the transferee, unless the transferor has given other written instructions for delivery.

(b) If a licensed real estate broker responsible for delivering the disclosures under this section cannot obtain the **disclosure** document required and does not have written assurance from the transferee that the **disclosure** has been received, the broker shall advise the transferee in writing of his or her rights to the **disclosure**. A licensed real estate broker responsible for delivering disclosures under this section shall maintain a record of the action taken to effect compliance in accordance with Section 10148 of the Business and Professions **Code**.

1103.13. No transfer subject to this article shall be invalidated solely because of the failure of any person to comply with any provision of this article. However, any person who willfully or negligently violates or fails to perform any duty prescribed by any provision of this article shall be liable in the amount of actual damages suffered by a transferee.

1103.14. (a) As used in this article, "listing agent" means listing agent as defined in subdivision (f) of Section 1086.

(b) As used in this article, "selling agent" means selling agent as defined in subdivision (g) of Section 1086, exclusive of the requirement that the agent be a participant in a multiple listing service as defined in Section 1087.

CALIFORNIA CODES

CIVIL CODE

SECTION 2079-2079.24

2079.7. (a) If a consumer information **booklet** described in Section 10084.1 of the Business and **Professions Code** is delivered to a transferee in connection with the transfer of real property, including property specified in Section 1102 of the **Civil Code**, or manufactured housing, as defined in Section 18007 of the Health and Safety **Code**, a seller or broker is not required to provide additional information concerning, and the information shall be deemed to be adequate to inform the transferee regarding, common environmental **hazards**, as described in the **booklet**, that can affect real property. (b) Notwithstanding subdivision (a), nothing in this section either increases or decreases the duties, if any, of sellers or brokers, including but not limited to, the duties of a seller or broker under this article, Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2, or Section 25359.7 of the Health and Safety **Code**, or alters the duty of a seller or broker to disclose the existence of known environmental **hazards** on or affecting the real property.

CALIFORNIA CODES

BUSINESS AND PROFESSIONS CODE

SECTION 10050-10086

10084.1

10084.1. (a) Notwithstanding Section 10450.6, on or before January 1, 1991, the department, using funds appropriated from the Education and Research Account in the Real Estate Fund, shall develop a **booklet** to educate and inform consumers on all of the following: (1) Common environmental **hazards** that are located on, and affect, real property. The types of common environmental **hazards** shall include, but not be limited to, asbestos, radon gas, lead-based paint, formaldehyde, fuel and chemical storage tanks, and water and soil contamination. (2) The significance of common environmental **hazards** and what can be done to mitigate these **hazards**. (3) What sources can provide more information on common environmental **hazards** for the consumer.

(b) The department shall seek the advice of the State Department of Health Services to assist it in determining the contents of the **booklet** prepared pursuant to this section, and shall seek the assistance of the State Department of Health Services in the writing of the **booklet**.